THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 19445 of 2004

16-09-2005

Between:

1 N.S.Venkataramana, S/o.Subbaiah,
T.S.No.3/13, Ward-4, block-B, D.No.13/309,
West Mada Street, Tirumala, Chittoor Dist. And others.

..... PETITIONERS

AND

1. Govt. of A.P. rep.by its Prl.Secretary, Revenue (Endts-III) Dept.,

Secretariat Buildings, Hyderabad.
2 The Special Deputy Collector (Land Acquisition), T.T.D. Tirupathi,

Chittoor Dist.

.....RESPONDENTS

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 19445 of 2004

O R D E R:

This writ petition is filed by the petitioners with a prayer to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the declaration issued by the 1st respondent u/s 6 of the Land Acquisition Act 1894 (for short 'the Act') vide Government Memo NO.10597/Endt. III (1)/2004-1 dt. 1-7-2004 issued by the respondent No.1 and published in New Indian Express English Daily Newspaper, Hyderabad on 31-07-2004 in respect of premises bearing Door Nos.13-308 and 13-309 T.S.No. 3/13 and 3/16, Ward No.4, Block-B in West Mada Street, Tirumala, Chittoor

District and the consequential proceedings as illegal, malafide and void and consequently restrain the respondents from taking any action pursuant thereto including dispossession of the petitioners from the above premises.

The 1st petitioner has filed his sworn affidavit in support of the writ petition. The case of the petitioners as stated in the affidavit filed in support of the writ petition be summarized briefly as under:

The petitioners are the owners of the property with structures bearing D.Nos. 13/309, 13/308 in T.S.No.3/13 and 3/16 Ward No.4 Block-B, West Mada Street, Tirumala, Chittoor District. Notification under Section 4(1) of the Act was issued by the respondent No.1 in ROC No.7/93 which was approved in Government Memo No.26180/Endts-III/A1/94 of Rev (Endts-III) Department dated 17-04-2003 and published in The New Indian Express daily English newspaper on 20-05-2003 for implementation of the alleged master plan. The petitioners submitted their objections. A draft declaration under Section 6 of the Act vide Government memo No. 26180/Endts-III/A1/94 dated 30-10-2003 was published in The New Indian Express, Hyderabad. When no inquiry was conducted, the petitioners filed W.P.No.25061 of 2003 before this Court and the said writ petition came to be partly allowed on 19-01-2004, by setting aside the notification under Section 6 of the Act with a direction to the 2nd respondent-Special Deputy Collector (Land Acquisition) to conduct enquiry under Section 5A of the Act afresh.

The petitioners filed their objections. When the objections of the petitioners were overruled, they approached this Court by invoking the jurisdiction under Article 226 of the Constitution of India.

The respondents filed counter affidavit. The sum and substance of the counter affidavit is that the petitioners appeared for the enquiry under Section 5A of the Act and filed objections in respect of acquisition of property. The objections raised by the petitioners were found to be not genuine, but, however, the same were sent to the requisitioning department to invite their comments who in turn through their letter dated 14-08-2003 expressed that the land in question is absolutely required for a public purpose which is not only for implementation of

master plan, but also for the use of developmental activities to provide better facilities to the visiting pilgrims which includes construction of Maha Prakaram around the temple. The said letter further states that there is every need of widening the four mada Streets in view of construction of Maha Prakaram in order to prevent pollution of water in Srivari Pushkarini by avoiding the residential houses around the holy shrines. As such the present land in question is required to be acquired for a genuine public use. An enquiry has been conducted as per the directions of this Court and sufficient opportunity was given to the petitioners to represent their case. The land proposed for acquisition is required for widening of west Mada street which includes construction of galleries on both sides of the four Mada streets to enable the pilgrims to sit and witness the processions of the deities in four Mada streets. The mere allegation that the purpose is changed with malafide intention is not correct. The construction of galleries and pavements is a part of widening the road. After taking into consideration the objections of the petitioners and contentions of TTD on the objections, a report was sent to the Government through the District Collector, Chittoor on 14-03-2004 along with documentary evidence. All the private properties in West Mada street have already been acquired and unless the present property is acquired, widening of the street cannot be taken up. Further the substituted purposes i.e., construction of Maha Prakaram, widening of west Mada street, construction of galleries and foot path for the pedestrians and developing ornamental gardens around the main temple to maintain the sanctity and serenity of the world famous temple is intended to provide better amenities to the pilgrim public. The government after careful examination of the objections raised by the objectors has decided to reject the same under Section 6 of L.A. Act through its Memo No.10597/Rev.Endt.III Dept-1/2004-1, dated 1-7-2004.

Heard the learned counsel for the petitioners as well as the learned Government Pleader for Land Acquisition appearing for the respondents.

The writ petitioners questioned the notification issued under Section 6 of the Act particularly on three grounds - firstly, the purpose for which the land is acquired is not clear; secondly, the property of the petitioners is not required to be acquired for widening the west Mada street; and thirdly, the purpose for which the land is proposed to be acquired is not for public purpose.

The same notification came to be questioned in W.P.No.14833 of 2004 in **K.VALLI KUMARI V. SPECIAL DEPUTY COLLECTOR AND ANOTHER,** the said writ petition came to be dismissed by an order dated 15-05-2005. The learned Government Pleader for Land Acquisition appearing for the respondents submits that the issues involved in W.P.No.14833 of 2004 and in this writ petition are one and the same. The learned counsel appearing for the petitioners did not dispute the impugned notification came to be challenged in W.P.No.14833 of 2004 and the said writ petition ended in dismissal. Since the W.P.No.14833 of 2004 questioning the impugned notification ended in dismissal, this writ petition is also liable to be dismissed.

Accordingly, this writ petition is dismissed. No costs.

_____

16-09-2005

Mjl/*